

NEW HAMPSHIRE STATE BUILDING CODE REVIEW BOARD

Minutes of Hearing - October 12, 2007

Attendance:

Jerry Tepe, Board of Architects, licensed architect
Tedd Evans, Board for Licensing and Regulation of Plumbers, licensed master plumber
Thomas Malley, Bureau of Electrical Safety and Licensing, licensed master electrician
John Tuttle, NH Home Builders Association, Architectural designer - residential
Robert Ives, NH Plumbers and Mechanical Contractors Association, mechanical contractor
Wayne A. Richardson, NH Building Officials Association, municipal building official
Mike Santa, CBO, Governor's Commission on Disability, Architectural barrier/free design
Jon Osgood, Public Utilities Commission, state energy conservation code office
Thomas Lambert, Chief, NH Association of Fire Chiefs, Municipal Fire
James Petersen, PE, Board of Engineers, licensed mechanical engineer
Mark Weissflog, NH Electrical Contractors Business Assoc., licensed master electrician
Joel Fisher, Board of Engineers, licensed structural engineer

Excused:

Senator Robert Clegg, Chairman, designee for Dept of Safety
Michael Hoisington, Fire Marshal, NH Association of Fire Chiefs, active fire prevention officer
Laura A. Black, PE - Board of Engineers, licensed electrical engineer

Absent:

VACANT, NH Municipal Association
Fred Baybutt, Associated General Contractors, building contractor - non-residential bldgs.

Guests:

Nancy Allen, NH Plumbers Board
Rick Jaros, Dartmouth College
Bo Peterson, Dartmouth College
Dean Miles, City of Dover, NH
Friedrich Moeckel, Attorney for Vinewood Development Company
Marta Modigliani, Legal Counsel, Office of the Commissioner
J. William Degnan, State Fire Marshal, Division of Fire Safety

Acting Chair Tepe declared the continued hearing open with a quorum of Board members present.

PUBLIC HEARING ON VINEWOOD

SCB 01-07: Vinewood v. State Fire Marshal

The Chair recognized Attorney Friedrich Moeckel on behalf of Vinewood Development Company. There is a **MOTION FOR RECONSIDERATION** which asks the Board to reconsider the dismissal of Vinewood's Petition, due to lack of subject matter jurisdiction. Attorney Moeckel pointed out that Vinewood did not request a variance or exception from the Fire Marshal in the first instance, and therefore the statutory jurisdictional element did not arise.

The Chair recognized Attorney Marta Modigliani on behalf of the State Fire Marshal's office. She reminded the Board that at the last hearing removed this **MOTION TO DISMISS** at the beginning of the Hearing - and the Board denied it - and the Hearing went forth. The Board heard the testimony that there wasn't a request for an **EXCEPTION** or **VARIANCE** before the Board. Since the Board's jurisdiction is limited to RSA 155-A: 11 which is to hear appeals of variance or exceptions to the State Fire Code that have been granted or denied. That didn't happen. They request the Board to deny the **MOTION FOR RECONSIDERATION** entered.

The Chair asked if there was anyone else who wished to speak on this subject matter. Seeing none - Acting Chair closed the **PUBLIC HEARING**.

The request is for a **MOTION TO RECONSIDER**.

Discussion of Board members: Wayne Richardson said Attorney Moeckel did not ask for a variance on the State Fire Code. What is law and what is not law. He does not see anywhere in either 155-A or in the Board's Rules that it gives this Board authority to determine what is law or administrative rule for another department. John Tuttle asked if we could get legal counsel to ask that question to. Legal Counsel is available by telephone.

Mike Santa made the **MOTION** to adjourn temporarily so the Board can seek Legal Counsel. John Tuttle **SECONDED** the **MOTION**. The Chair asked for any discussion - Jon Osgood asked for a **POINT OF ORDER** - asked if the Board was entering Executive Session - Chair Tepe stated yes. He then asked for a vote. Vote taken was 8 to temporarily adjourn the meeting to seek legal counsel with 3 abstentions being Tedd Evans, Bob Ives and Tom Malley. **Vote carried**. The Chair asked for all non-Board members to leave the room.

Wayne Richard made the **MOTION** to reconvene the meeting. John Tuttle **SECONDED**. Vote taken was **UNANIMOUS** in favor, again with the 3 abstentions. Acting Chair Tepe declared the public meeting back in session.

Wayne Richards made the **MOTION** to deny the request for the re-hearing in the Vinewood case. Mike Santa **SECONDED** the **MOTION** to deny. Discussion: Wayne Richardson said that as a lay person he could see either in 155-A or in the Rules that govern this Body - that we have the authority to determine what another agency has adopted for their Rules and/or Codes. And this is the Petitioner's main argument is for his request for re-hearing.

Chair asked if there was any further discussion by the Board. Seeing none - asked for a vote and a show of hands. All in favor of the **MOTION** to deny for reconsideration - those in favor totaled 7 those who abstained were Tedd Evans, Joel Fisher, Tom Malley, and Bob Ives. This matter is closed.

Adoption of meeting minutes from September 14, 2007:

Mark Weissflog made the **MOTION** to accept the minutes as published. Wayne Richardson **SECONDED**. Chair asked for any errors or omissions or corrections - there being none asked for a vote. Vote taken was **Unanimous** in favor. No abstentions.

PUBLIC HEARINGS/COMMENTS ON EXHIBITS

Nancy Allen, the Chief plumbing inspector for the Plumbers Licensing Board:

Spoke in favor of the proposed amendments and said that most Board members were behind her in this decision. Nancy also said that the Plumbers Board was also in favor and supportive of the Exhibits previously submitted as proposals to re-adopt.

Wayne Richardson asked what the concern was of the Plumbers Board regarding the modification for plumbing code, 416.5 - tempered water for public hand washing facilities. Nancy said the Board had decided with eliminating tempered water at all public hand washing facilities - because their interpretation was that every public facility was required to have tempered water and not hot water for all public hand washing sinks. There was no conversation with ICC regarding this because its not an ADA requirement. Tedd Evans identified 101.2 that if Exhibit 19 is adopted - then the strikeout on Exhibit 24 should not be stricken. Bob Ives asked if a direct beam solar panels (inaudible) Nancy said that the tank would have to be maintained at a minimum of 140 degrees. John Tuttle asked why it was changed from 130 degrees to 140 degrees? Nancy said it basically legionnaires disease - they have recommended the 140 degrees. Joel Fisher asked about 501.9 the minimum (140) and 501.6 says 130 degrees when intended for massive use. The maximum temperature that comes out of faucet is not over 130 degrees. James Petersen asked if there was any discussion about intermittent changes in water temperatures from 140 to 130 degrees. Nancy said she does not recall any such discussion. John Osgood asked what temperature are home storage tanks set to. As long as its 110 its left alone by the plumber.

603.1 3/4 inch supplies going into houses is not adequate - that is why they are recommending 1 inch supplies.

Rick Jaros from Dartmouth spoke in favor of the 140 degree water temperature in a water heater. The publications he has read all strongly endorse this. Primarily to kill Legion Ella - it's a bacteria that lives in water, thrives in water between 100 - 110 degrees. It is contracted inhaled. 135 degrees it will survive. 140 degrees it is considered as killing it.

Jon Osgood thought this was from an open system rather than a closed system. Rick answered yes and no. In a home when you take a shower - you inhale the mist - you would contract it. Washing hands at the sink probably not unless it was extremely hot. Doing dishes - maybe. Wayne Richardson asked if the growth rate would be greatest at a particular temperature? Rick answered it's a curve - 95 to 115 degrees is the top of the curve.

Dean Miles from the City of Dover under section 606.2 location of shut off valves applies to plumbing fixtures other than bathtubs/showers in 1-2 family dwellings . . . but is not required on showers and bathtubs.

Bo Peterson from Dartmouth College endorsed the amendments brought in by Laura Black.

Chair Tepe asked if there was anyone else who wanted to speak at this Public Hearing on the Exhibits as published. There being no one else - declared the Public Hearing to be closed.

Re-adoption of the previous amendments as necessary:

Exhibit 24: Current amendments to the International Plumbing Code - bringing those forward into the 2006 edition. Tedd Evans **MOVED** for adoption. Tom Malley **SECONDED**. Discussion: Wayne Richardson asked if any deletions needed to be made to those amendments because of we are now under the Residential Code. Tedd said no it was ok it refers to the IRC. John Tuttle thought there was an amendment that limited (inaudible). Tedd Evans said that was incorporated in the code - in the Code text itself. With no further discussion - Chair asked for a vote. Vote was **Unanimous** and declared **PASSED**.

Exhibit 25: Current amendments to the International Mechanical Code - bringing those forward into the 2006 edition. Wayne Richardson **MOVED** for adoption. Tedd Evans **SECONDED**. Discussion: there being none - Chair Tepe asked for a vote. Vote was **Unanimous** and declared **PASSED**.

Exhibit 26: Current amendments to the International Energy Conservation Code - bringing forward into the 2006 edition. Jon Osgood **MOVED** for adoption. Mark Weissflog **SECONDED**. Discussion: there being none - the Chair asked for a vote. Vote was **Unanimous** and declared **PASSED**.

Exhibit 27: Current amendments to the International Residential Code - bringing those forward into the 2006 edition. John Tuttle **MOVED** for adoption. Wayne Richardson **SECONDED**. Discussion: there being none - the Chair asked for a vote. Vote was **Unanimous** and declared **PASSED**.

Exhibit 28: Current amendments to the International Building Code - bringing forward into the 2006 edition. Tom Malley **MOVED** for adoption. Mike Santa **SECONDED**. Discussion: there being none - the Chair asked for a vote. Vote was **Unanimous** and declared **PASSED**.

IRC 2006 - Proposed Amendments - Exhibit 29:

Mark Weissflog minimum water temperatures - he can see a problem with a solar panel and geo-thermal industry when it comes to (inaudible) because an inspector can and will interpret that as requiring pre-water tanks to be 140 degrees - and that is not going to allow the appropriate use of geo-thermal (inaudible) hot water. In either case either re-wording or an exemption that allows a pre-tank to operate at whatever temperature they need but the actual domestic water tanks (inaudible) residence, be maintained at 130 degrees. Point of Order - Tedd Evans asked if we could make that amendment. The Chair stated that as long as it is a change on something in front of us already - yes an amendment would be legal. Tedd Evans made the **MOTION** to adopt Exhibit 29 with the amendment spoken by Mark Weissflog. It would be amendment to Section 2804.2 Minimum Water Heater Temperatures - add a new exception that states: This Section shall not apply to any hot water storage pre-tanks as installed in a solar thermal system Mark Weissflog **SECONDED** the **MOTION**. Discussion: Joel Fisher asked if you could just add the word potable hot water storage tanks. Tedd stated that they would both be considered potable water. Wayne Richardson agreed with Mark and would suggest it be called something other than (inaudible) storage tank, because that would only add. It's not really a hot water storage tank. It's a pre-conditioned tank. John Tuttle I don't know if there is enough evidence to raise the temperature to 140 degrees. And then adding the temperate valve that would bring it back down. Tedd Evans responded that Section would be 2804.2 which is a new Section that would require a minimum water

storage of 140 degrees. Clarification - Section 2804 is all totally new. James Petersen will not support the raising of the water temperature in a tank to 140 degrees - there is not enough evidence to support that. Jon Osgood also agrees with James saying that the Energy Conservation Community has for decades advocated a minimum setting of 120 degrees for water tanks. Tedd Evans said he has done extensive research on this and all the medical responses have concluded a water temp of under 140 degrees would be unhealthy for people. James Petersen encouraged the Board members to vote against adopting Exhibit 29. Chairman Tepe asked Tedd and Mark- for clarity sake - can we delete from Exhibit 29 - Section 2603.6.1 Sewer depth and 3103.1 Roof extension as these were covered in Exhibit 27. No objection. Those 2 sections will be deleted from this Exhibit 29. The Chair asked for a vote by hand. Three in favor and 8 against. **MOTION FAILED.**

Mark Weissflog made a **MOTION** to reconsider Exhibit 29 next month - reworded with the appropriate language, with the 2804 section. Tedd Evans suggested a **MOTION** be made without the water temperature. John Tuttle **SECONDED** Mark's Motion. Discussion: Mike Santa agreed with this Motion because there is a lot here to digest. Chairman Tepe asked for a vote. Vote taken was 9 and opposed was 2. **MOTION PASSED.** Exhibit 29 will be tabled until next month.

IPC 2006 - Proposed Amendments - Exhibit 30:

Tedd Evans made the **MOTION** to accept Exhibit 30 with the exception of 501.9 - Minimum Water Temperature and to move that section to next month to be discussed. Tom Malley **SECONDED**. Discussion: Chairman asked that we delete the repetitive sections covered in Exhibit 24. John Tuttle made a **MOTION TO AMEND** the original **MOTION** by adding section 501.2 and 501.6 to the deletion list, as they would tie in with the 501.9. **MOTION TO AMEND** was duly **SECONDED** by _____. There being no further discussion vote was taken. Vote was **UNANIMOUS** in favor. **MOTION PASSED.**

Discussion: Bob Ives made the **MOTION TO AMEND** the **AMENDED MOTION** to add section 312.1 Required Test to the deletion list and moved to next month for discussion. Discussion: Bob thinks this is too broad, there should be more detail. **MOTION DIES** for lack of **SECOND**.

Wayne Richardson made the **MOTION** to **AMEND** the **MOTION**, section 312.1, the added language to read "air test on drain waste and vent plastic pipe". **MOTION** was **SECONDED** by Tedd Evans. Discussion: there being none, the Chair asked for a vote. Vote was **UNANIMOUS** in favor. **MOTION PASSED.**

IECC 2006 - Proposed Amendments - Exhibit 31:

Jon Osgood made the **MOTION** to adopt Exhibit 31. Bob Ives **SECONDED**. Discussion: Jon Osgood said this Exhibit puts NH back into a single climate zone as it has been since the Code was originally adopted 30 years ago. The center is in Concord. This puts all of NH in zone 6. Wayne Richardson said he would support this. Chair Tepe said that this would improve energy conservation. There being no further discussion - vote was taken. Vote was **UNANIMOUS** in favor. **MOTION PASSED.**

IRC 2006 - Proposed Amendments - Exhibit 32:

John Tuttle made the **MOTION** to adopt Exhibit 32. Tom Malley **SECONDED**. Discussion: there being none - Chair Tepe asked for a vote. Vote was **UNANIMOUS** in favor. **MOTION PASSED.**

IBC 2006 - Proposed Amendments - Exhibit 33:

James Petersen made the **MOTION** to adopt Exhibit 33. Jon Osgood **SECONDED**. Discussion: there being none - the Chair asked for a vote. Vote was **UNANIMOUS** in favor. **MOTION PASSED**.

IMC 2006 - Proposed Amendments - Exhibit 34:

James Petersen made the **MOTION** to adopt Exhibit 34. Wayne Richardson **SECONDED**. Discussion: there being none - the Chair asked for a vote. Vote was **UNANIMOUS**. **MOTION PASSED**.

Proposed Amendment on smoke dampers in hazardous ducts - Exhibit 35:

No vote taken - this Exhibit is back-up material to exhibits 33 and 34. Board members all agreed.

OLD BUSINESS

Legal Opinion from the Attorney General's office:

Chairman Clegg has sent the information to Attorney Mary Maloney asking her for a legal opinion for the Board. A reminder note was sent earlier this week and a reply was that it would be worked on yesterday. As of this morning it had not been received and Attorney Maloney could not be reached. This will be tabled until next month's meeting.

Report from Wayne Richardson on opinion from the Municipal Association: Wayne could not ask the Association - and his Association is looking for some guidance. There is this huge on-going confusion about the Codes, and adoption, and enforcement.

Modular Home Industry tour:

On hold until after the Holidays.

Energy Code compliance discussion - tabled from the meeting held on September 14:

Tabled until meeting in November.

FAQ errors/Section on website:

Marta reported that the AG's office came to discuss some of the FAQ's - and since she has left the AG's office - and Wynn is still on leave - so she needs to find out who the AG's office is going to assign for this. Chair Tepe asked to have the general questions that do not need input from the AG's office to be put back up on the website as soon as practical. Marta said she could do that.

E-mail article on air ducts - report from sub-committee: John Tuttle reported that the sub-committee met. Does not have a written report yet - the work is still on-going. Chair tabled this until next month's meeting.

NEW BUSINESS

Conflict in NFPA 101 and 2006 IBC on areas of refuge - Mike Santa:

Do to lack of time - the Chair tabled this until November's meeting.

OTHER BUSINESS

Chair Tepe reminded everyone that next months meeting will be held on November 16th NOT November 9th - due to the Holiday. This was voted on by the Board earlier on this year.

Tom Malley reported that the Electrician's Board had purchased the Board members the new 2008 NEC.

Jon Osgood asked if these Amendments had to be brought before the General Court. The Chair said any amendments take effect immediately - and must be ratified by the General Court within 2 years.

ADJOURNMENT

Tom Malley **MOVED** to adjourn. Joel Fisher **SECONDED**. Vote was **UNANIMOUS**. The Chair declared this meeting **ADJOURNED**.